



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/432,851	11/02/99	DODDS	W 17928-21

QM12/0130
OPPENHEIMER WOLFF & DONNELLY LLP
38TH FLOOR
2029 CENTURY PARK EAST
LOS ANGELES CA 90067-3024

EXAMINER	
ASTORINO, M	
ART UNIT	PAPER NUMBER

3736

#3

DATE MAILED: 01/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/432,851	Applicant(s) DODDS, W. JEAN	
	Examiner Michael C Astorino	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 November 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims 1-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 16) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species 1 - Claims 5-7 are directed to example 1: temperament and longevity

Species 2 - claims 8-10 is directed to example 2: immune stimulation and cellular inflammatory response

Species 3 - claims 11-13 is directed to example 3: inherited organ dysfunction or dysplasia

Species 4 - claims 14-16 is directed to example 4: autoimmune thyroiditis

Species 5 - claims 17-19 is directed to example 5: mammary cancer

Species 6 - claims 20-22 is directed to example 6: immune surveillance

Species 7 - claims 23-25 is directed to example 7: inherited bleeding disorders

2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 1-4 is generic.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. A telephone call was made to Charles Berman on 1/26/2001 to request an oral election to the above restriction requirement, but did not result in an election being made.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C Astorino whose telephone number is 703-306-9067.

The examiner can normally be reached on Tuesday-Friday, 8:00AM to 5:00PM.

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The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0758 for regular communications and 703-308-0758 for After Final communications.



M. Astorino

January 28, 2001



ERIC F. WINAKUR
PRIMARY EXAMINER